IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

SATURDAY, THE 1ST DECEMBER 2007 / 10TH AGRAHAYANA 1929

Crl.MC.No. 3023 of 2007()

CC.535/2007 of CHIEF JUDICIAL MAGISTRATE, KASARAGOD

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PETITIONER: IST ACCUSED

ABDUL KAREEM,S/O.IBRAHIM,HOSANGADY,
BANGRA MANJESHWAR, KASARAGODE TALUK.

BY ADV. SRI.T.G.RAJENDRAN

RESPONDENTS: COMPLAINANT/STATE

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1. STATION HOUE OFFICER,
MANJESHWAR POLICE STATION.

2. STATE REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

ADDL.R3. ARIYA, W/O. ABDUL KAREEM
AGED 25 YEARS, PUTHUKOTE POST
UPPALA, KASARGODE TALUK.

IMPLEADED AS PER ORDER DT.26.10.07 IN
CRL.M.A. 5633/07.

BY PUBLIC PROSECUTOR SRI. M.S. BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 01/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 3023 of 2007

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Dated this the 1st day of December, 2007

O R D E R

The prayer in this Crl.M.C. is to quash a prosecution under Section 498A I.P.C. on the ground that the disputes have been settled and the matter has been compounded by the defacto complainant. Though sufficient time has been given, no application has been filed by the defacto complainant to report composition. There is nothing available before the Court to show that the third respondent has, as a matter of fact, compounded the offence.

2. This Crl.M.C. is, in these circumstances, dismissed. Needless to say, if the third respondent has compounded the offence, the dismissal of this Crl.M.C. will not in any way fetter the rights of the petitioner to move a fresh application seeking identical relief.

(R. BASANT)
Judge

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R. BASANT, J.

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Crl.M.C.No. 3023 of 2007

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Dated this the 28th day of September, 2007

O R D E R

The petitioner is the first accused facing indictment in a prosecution under Section 498A I.P.C. The co-accused have already been found not guilty and acquitted. The case against the petitioner is split up. According to the petitioner there has been a harmonious settlement of the dispute. If there is such settlement of the dispute, the petitioner must come along with the defacto complainant and file a joint statement to satisfy the court that at present the defacto complainant does not want to prosecute the case. On the basis of the prior statement filed, a conclusion cannot be drawn that the defacto complainant has compounded a non-compoundable offence under Section 498A I.P.C. It is not proper or necessary to issue notice to the defacto complainant to ascertain whether such composition has been effected or not.

2. The petitioner must array the defacto complainant as a party and also file a joint application for composition along with her. The prayer can be considered only thereafter. The learned counsel prays for a month's time to ensure that the application is filed. Call on 26.10.07.

(R. BASANT)

tm Judge